

OFFICE OF THE DIRECTOR

DEPARTMENT OF MOTOR VEHICLES

P.O. BOX 932328

SACRAMENTO, CA 94232-3280

**TITLE 13: DEPARTMENT OF MOTOR VEHICLES****NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (department) proposes to amend Sections 272.00 and 272.02 in Article 4.2, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to Vehicle Dealers.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on **December 13, 2010**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Vehicle Code sections 320, 4456, 5753 and 11709 and Civil Code section 1798.81.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 320 defines “Established Place of Business” for vehicle dealers. Vehicle Code section 5753 provides transfer of registration requirements. Vehicle Code section 11709 requires the display of certain business documents within view of the public.

Current regulations require pertinent business records to be open to inspection, retained for no less than three years and maintained at specified locations, with exceptions, upon approval of the department. While regulations implement some storage standards, they do not address vital requirements such as retention of original documents, requirements for producing quality copies of original documents, retention of copies and the secure destruction of original documents.

The department proposes to strengthen business record storage provisions by, among other things:

- Requiring a dealer to maintain business records at the principal place of business or branch location for 18 months following the subject vehicle transaction.
- Authorizing a dealer to maintain business records at an offsite storage location within the state.

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- Requiring records to be retrievable upon three days notice.
- Implementing federal safeguard standards for storage.
- Authorizing a dealer to create an electronic copy of original business record provided the electronic copy meets specified requirements.
- Authorizing a dealer to dispose of original business records pursuant to requirements of Civil Code section 1798.81.
- Authorizing the use of a third party to store records.

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulation will neither create nor eliminate jobs or businesses in the state of California, will not result in the elimination of existing businesses, and will neither reduce nor expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses because the regulations only implement business record storage and retention requirements.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed:

Randi Calkins, Regulations Analyst
Department of Motor Vehicles
P.O. Box 932382, MS C-244
Sacramento, California 94232-3820
Telephone: (916) 657-6469
Facsimile: (916) 657-1204
E-mail: LADRegulations@dmv.ca.gov

In the absence of the department representative, inquiries may be directed to:

Cathy Sowell, Chief of Staff
Telephone (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the initial statement of reasons and final statement of reasons, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.